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MEMORANDUM

TO: Senate Judiciary Committee
FROM: Kansas Judicial Council
DATE: January 24, 2011
RE: Judicial Council Testimony on 2011 SB 9 Relating to Amendments to the Code of Civil Procedure

Last year the Legislature passed 2010 HB 2656, which was the result of more than two years of work by the Judicial Council Civil Code Advisory Committee. The Kansas Code of Civil Procedure is based on the Federal Rules of Civil Procedure, and HB 2656 conformed Kansas civil procedure statutes with a number of recent federal amendments, including a comprehensive restyling of the federal rules. SB 9 is a follow-up bill to HB 2656, containing technical amendments and a few revisions that were missed in the first bill.

Set forth below are the Civil Code Advisory Committee's comments to the amendments in each section of the bill.

Section 1

The 20-day time period in K.S.A. 20-317 for filing a motion to transfer an appeal to the Supreme Court was enacted when the docketing period was 10 days. Now that the docketing period has been expanded to 20 days, the time to file a motion to transfer must be expanded as well.

Senate Judiciary

1-24-11

Attachment 2

Section 2

When the Committee proposed the changes that were contained in 2010 HB 2656, it intended to change the time period in K.S.A. 38-2305(b) from "5 working days" to "seven days." That change did not get made, and this amendment takes care of the omission.

Section 3

The amendments in 2010 HB 2656 included adding subsection captions or modifying existing captions. The new subsection captions for K.S.A. 60-203 were inadvertently omitted in HB 2656 and are now added.

Section 4

This amendment to K.S.A. 60-206(d) is to strictly conform the statute to the corresponding federal rule and to clarify that the three-day mail rule applies to service by fax and electronic means.

Section 5

This amendment is to correct a typographical error in the caption of K.S.A. 60-209(b).

Section 6

"Fax number" has been added to K.S.A. 60-211(a) because fax service is authorized under K.S.A. 60-205.

Section 7

This amendment is to correct a typographical error in the caption of K.S.A. 60-214(a). As used here, "third party" should not be hyphenated.

Section 8

This amendment to K.S.A. 60-226(f) is to strictly conform the caption to the federal rule.

Section 9

This amendment is to correct a typographical error in the caption of K.S.A. 60-235(c).

Section 10

This amendment to K.S.A. 60-249(b)(3) is to strictly conform the caption to the federal rule.

Section 11

This amendment to K.S.A. 60-260(a) is to strictly conform the caption to the federal rule.

Section 12

K.S.A. 60-270 is amended to add subsection headings consistent with the other statutes in the code of civil procedure.

Section 13

This amendment is to correct a typographical error in the caption of K.S.A. 60-310(b).

Section 14

K.S.A. 60-270(m) has been amended to reflect that K.S.A. 60-245a now allows a records custodian to submit either an affidavit or a declaration.

Section 15

This amendment to K.S.A. 60-2003 removes a reference to a subsection in K.S.A. 60-308, dealing with service by return receipt delivery, that has been deleted.

Section 16

The time periods in K.S.A. 60-3503, which is part of an act establishing a procedure for professional malpractice screening panels, were changed in HB 2656 from 10 to 14 and 20 to 21 days. K.S.A. 65-4902 is the corresponding statute in the act providing for medical malpractice screening panels, and these time periods should be changed accordingly.